

House Judiciary Committee Testimony
SB 0318 Extend recreational immunity to aircraft

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I am a past president of the Western Montana Stockmen's Association and currently the Western Director of the 700 member Montana Pilots' Association. I am here today as a member of these two organizations to voice the organizations' support for SB 318.

I have been an active Montana pilot and aircraft owner for 46 years. I owned a ranch west of Polson for 26 years, on which I constructed an airstrip and airplane hangar. The airstrip was mainly for my own use. Other pilots were welcome to use it, but I always had a concern if an aviator should be injured or killed during aircraft operations. The current ranch owner, although not a pilot, keeps the airstrip maintained. He would like to have people fly in, but until the current statute is amended by this bill, he feels forced to keep the airstrip closed to the public. Other ranchers and farmers are in the same situation.

Montana's recreational use statute is designed to encourage landowners to open their lands to the public by limiting landowner liability to recreational users. The statute acts as a deterrent to lawsuits brought against landowners by individuals who do not want to take personal responsibility for their actions. We do not live in a perfect world. Of the four Montana cases of record where the recreational use statute was used as a defense, one occurred in my hometown of Polson. In *Jobe v. City of Polson*, a fisherman fell through a rotten board on a city owned dock and was injured. The courts ruled that the city did not commit willful and wanton misconduct. It is like driving down the road where a pothole may be encountered any time. We all take risks every day and must accept that fact as part of life.

If a pilot is involved in an accident when landing or taking off from a suitable site, the private landowner should not be held accountable for someone else's lack of good judgment and experience, no more than if a fisherman falls off the creek bank and drowns.

SB 0318 merely includes aviation as one of the many already enumerated recreational activities currently included in Montana's recreational use statute.

I urge you to give this bill a "do pass" recommendation.